

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 222 be amended to read as follows:

- 1 Page 1, line 4, after "," insert "**and except as provided in**
- 2 **subsection (b),**".
- 3 Page 1, line 5, after "insurance" insert "**that is issued after June 30,**
- 4 **2005,**".
- 5 Page 1, line 6, after "and" insert "**any**".
- 6 Page 1, line 7, delete "all of the following conditions are met:" and
- 7 insert "**:**
- 8 **(1) the waiver period does not exceed ten (10) years; and**
- 9 **(2) all of the following conditions are met:**".
- 10 Page 1, line 8, delete "(1)", begin a new line double block indented
- 11 and insert:
- 12 **"(A)".**
- 13 Page 1, line 9, delete "a".
- 14 Page 1, line 12, delete "(2)", begin a new line double block indented
- 15 and insert:
- 16 **"(B)".**
- 17 Page 1, line 13, delete "(A)", begin a new line triple block indented
- 18 and insert:
- 19 **"(i)".**
- 20 Page 1, line 14, delete "(B)", begin a new line triple block indented
- 21 and insert:
- 22 **"(ii)".**
- 23 Page 1, line 15, beginning with "include" begin a new line double
- 24 block indented.
- 25 Page 2, line 1, delete "(3)", begin a new line double block indented

1 and insert:
2 "(C)".
3 Page 2, line 2, delete "(A)", begin a new line triple block indented
4 and insert:
5 "(i)".
6 Page 2, line 3, delete "(B)", begin a new line triple block indented
7 and insert:
8 "(ii)".
9 Page 2, line 4, beginning with "do" begin a new line double block
10 indented.
11 Page 2, line 5, delete "(4)", begin a new line double block indented
12 and insert:
13 "(D)".
14 Page 2, line 8, delete "(5)", begin a new line double block indented
15 and insert:
16 "(E)".
17 Page 2, line 8, delete "to review the waiver upon request if:" and
18 insert **"to:**
19 **(i) review the underwriting basis for the waiver upon**
20 **request one (1) time per year; and**
21 **(ii) remove the waiver if the insurer determines that**
22 **evidence of insurability is satisfactory."**
23 Page 2, delete lines 9 through 16.
24 Page 2, line 17, delete "(6)", begin a new line double block indented
25 and insert:
26 "(F)".
27 Page 2, line 21, delete "(7)", begin a new line double block indented
28 and insert:
29 "(G)".
30 Page 2, line 25, delete "(1)" and insert **"(2)(A)".**
31 Page 2, line 26, delete "(2)" and insert **"(2)(B)".**
32 Page 2, line 31, delete "Notwithstanding subsection (a), an" and
33 insert **"An"**.
34 Page 2, between lines 35 and 36, begin a new paragraph and insert:
35 **"(c) An insurer may not, on the basis of a waiver contained in a**
36 **policy as provided in subsection (a), deny coverage for any**
37 **condition or complication that is not specified as required in the:**
38 **(1) written notice under subsection (a)(2)(A); and**
39 **(2) offer of coverage and policy under subsection (a)(2)(B).**
40 **(d) An individual who is covered under a policy that includes a**
41 **waiver under subsection (a) may directly appeal a denial of**
42 **coverage based on the waiver by filing a request for an external**
43 **grievance review under IC 27-8-29 without pursuing a grievance**
44 **under IC 27-8-28."**
45 Page 2, line 40, after "issued" insert **"after June 30, 2005,"**.
46 Page 3, line 4, after "," insert **"and except as provided in**
47 **subsection (e),"**.

1 Page 3, line 5, after "and" insert **"any"**.
2 Page 3, line 6, delete "all of the following conditions are" and insert
3 ":",
4 **(1) the waiver period does not exceed ten (10) years; and**
5 **(2) all of the following conditions are met:"**.
6 Page 3, delete line 7.
7 Page 3, line 8, delete "(1)", begin a new line double block indented
8 and insert:
9 **"(A)"**.
10 Page 3, line 9, delete "a".
11 Page 3, line 12, delete "(2)", begin a new line double block indented
12 and insert:
13 **"(B)"**.
14 Page 3, line 13, delete "(A)", begin a new line triple block indented
15 and insert:
16 **"(i)"**.
17 Page 3, line 14, delete "(B)", begin a new line triple block indented
18 and insert:
19 **"(ii)"**.
20 Page 3, line 15, beginning with "include" begin a new line double
21 block indented.
22 Page 3, line 18, delete "(3)", begin a new line double block indented
23 and insert:
24 **"(C)"**.
25 Page 3, line 19, delete "(A)", begin a new line triple block indented
26 and insert:
27 **"(i)"**.
28 Page 3, line 20, delete "(B)", begin a new line triple block indented
29 and insert:
30 **"(ii)"**.
31 Page 3, line 21, beginning with "do" begin a new line double block
32 indented.
33 Page 3, line 22, delete "(4)", begin a new line double block indented
34 and insert:
35 **"(D)"**.
36 Page 3, line 25, delete "(5)", begin a new line double block indented
37 and insert:
38 **"(E)"**.
39 Page 3, line 25, delete "review the waiver upon request if:" and
40 insert ":",
41 **(i) review the underwriting basis for the waiver upon**
42 **request one (1) time per year; and**
43 **(ii) remove the waiver if the insurer determines that**
44 **evidence of insurability is satisfactory."**.
45 Page 3, delete lines 26 through 33.
46 Page 3, line 34, delete "(6)", begin a new line double block indented
47 and insert:

1 **"(F)".**

2 Page 3, line 39, delete "(7)", begin a new line double block indented
3 and insert:

4 **"(G)".**

5 Page 4, line 1, delete "(b)(1)" and insert **"(b)(2)(A)".**

6 Page 4, line 3, delete "(b)(2)" and insert **"(b)(2)(B)".**

7 Page 4, line 9, delete "Notwithstanding subsection (b), a" and insert
8 **"A".**

9 Page 4, between lines 12 and 13, begin a new paragraph and insert:

10 **"(f) An insurer may not, on the basis of a waiver contained in a**
11 **policy as provided in this section, deny coverage for any condition**
12 **or complication that is not specified as required in the:**

13 **(1) written notice under subsection (b)(2)(A); and**

14 **(2) offer of coverage and certificate of coverage under**
15 **subsection (b)(2)(B).**

16 **(g) An individual who is covered under a policy that includes a**
17 **waiver under this section may directly appeal a denial of coverage**
18 **based on the waiver by filing a request for an external grievance**
19 **review under IC 27-8-29 without pursuing a grievance under**
20 **IC 27-8-28."**

21 Page 6, delete lines 19 through 22, begin a new paragraph and insert:

22 "SECTION 4. IC 27-8-29-6 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. As used in this
24 chapter, "external grievance" means the independent review under this
25 chapter of a:

26 (1) grievance filed under IC 27-8-28; or

27 (2) denial of coverage based on a waiver described in
28 IC 27-8-5-2.5, ~~or~~ **IC 27-8-5-2.7**, IC 27-8-5-19.2, ~~or~~
29 **IC 27-8-5-19.3.**

30 SECTION 5. IC 27-8-29-12 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. An insurer shall
32 establish and maintain an external grievance procedure for the
33 resolution of external grievances regarding:

34 (1) an adverse determination of appropriateness;

35 (2) an adverse determination of medical necessity;

36 (3) a determination that a proposed service is experimental or
37 investigational; or

38 (4) a denial of coverage based on a waiver described in
39 IC 27-8-5-2.5, ~~or~~ **IC 27-8-5-2.7**, IC 27-8-5-19.2, ~~or~~
40 **IC 27-8-5-19.3;**

41 made by an insurer or an agent of an insurer regarding a service
42 proposed by the treating health care provider.

43 SECTION 6. IC 27-8-29-13 IS AMENDED TO READ AS
44 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) An external
45 grievance procedure established under section 12 of this chapter must:

46 (1) allow a covered individual or a covered individual's
47 representative to file a written request with the insurer for an

external grievance review of the insurer's:

(A) appeal resolution under IC 27-8-28-17; or

(B) denial of coverage based on a waiver described in IC 27-8-5-2.5, **or IC 27-8-5-2.7**, IC 27-8-5-19.2, **or IC 27-8-5-19.3;**

not more than forty-five (45) days after the covered individual is notified of the resolution; and

(2) provide for:

(A) an expedited external grievance review for a grievance related to an illness, a disease, a condition, an injury, or a disability if the time frame for a standard review would seriously jeopardize the covered individual's:

(i) life or health; or

(ii) ability to reach and maintain maximum function; or

(B) a standard external grievance review for a grievance not described in clause (A).

A covered individual may file not more than one (1) external grievance of an insurer's appeal resolution under this chapter.

(b) Subject to the requirements of subsection (d), when a request is filed under subsection (a), the insurer shall:

(1) select a different independent review organization for each external grievance filed under this chapter from the list of independent review organizations that are certified by the department under section 19 of this chapter; and

(2) rotate the choice of an independent review organization among all certified independent review organizations before repeating a selection.

(c) The independent review organization chosen under subsection (b) shall assign a medical review professional who is board certified in the applicable specialty for resolution of an external grievance.

(d) The independent review organization and the medical review professional conducting the external review under this chapter may not have a material professional, familial, financial, or other affiliation with any of the following:

(1) The insurer.

(2) Any officer, director, or management employee of the insurer.

(3) The health care provider or the health care provider's medical group that is proposing the service.

(4) The facility at which the service would be provided.

(5) The development or manufacture of the principal drug, device, procedure, or other therapy that is proposed for use by the treating health care provider.

(6) The covered individual requesting the external grievance review.

However, the medical review professional may have an affiliation under which the medical review professional provides health care services to covered individuals of the insurer and may have an

1 affiliation that is limited to staff privileges at the health facility, if the
 2 affiliation is disclosed to the covered individual and the insurer before
 3 commencing the review and neither the covered individual nor the
 4 insurer objects.

5 (e) A covered individual shall not pay any of the costs associated
 6 with the services of an independent review organization under this
 7 chapter. All costs must be paid by the insurer.

8 SECTION 7. IC 27-8-29-15 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) An independent
 10 review organization shall:

11 (1) for an expedited external grievance filed under section
 12 13(a)(2)(A) of this chapter, within three (3) business days after the
 13 external grievance is filed; or

14 (2) for a standard appeal filed under section 13(a)(2)(B) of this
 15 chapter, within fifteen (15) business days after the appeal is filed;
 16 make a determination to uphold or reverse the insurer's appeal
 17 resolution under IC 27-8-28-17 based on information gathered from the
 18 covered individual or the covered individual's designee, the insurer, and
 19 the treating health care provider, and any additional information that the
 20 independent review organization considers necessary and appropriate.

21 (b) When making the determination under this section, the
 22 independent review organization shall apply:

23 (1) standards of decision making that are based on objective
 24 clinical evidence; and

25 (2) the terms of the covered individual's accident and sickness
 26 insurance policy.

27 (c) In an external grievance described in section 12(4) of this
 28 chapter, the insurer bears the burden of proving that the insurer
 29 properly denied coverage for a condition, complication, service, or
 30 treatment because the condition, complication, service, or treatment is
 31 directly related to a condition for which coverage has been waived
 32 under IC 27-8-5-2.5, ~~or IC 27-8-5-2.7~~, IC 27-8-5-19.2, ~~or~~
 33 **IC 27-8-5-19.3.**

34 (d) The independent review organization shall notify the insurer and
 35 the covered individual of the determination made under this section:

36 (1) for an expedited external grievance filed under section
 37 13(a)(2)(A) of this chapter, within twenty-four (24) hours after
 38 making the determination; and

39 (2) for a standard external grievance filed under section
 40 13(a)(2)(B) of this chapter, within seventy-two (72) hours after
 41 making the determination."

42 Renumber all SECTIONS consecutively.

(Reference is to ESB 222 as printed March 25, 2005.)

